

Before the Board of Zoning Adjustment, D.C.

Application No. 12042 of 5501 Connecticut Avenue Associates, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.411 to permit accessory automobile parking in the R-1-B District at the premises 3725 Livingston Street, N.W. (Square 1868, lot 69).

HEARING DATE: January 21, 1976

DECISION DATE: January 21, 1976 (from the Bench)

FINDINGS OF FACT:

1. The subject property is located in an R-1-B District.
2. The subject property was before the Board in Case No. 11509, in which the applicant requested special exception under the same paragraph of the Zoning Regulations as the present application.
3. The application in Case No. 11509 originally requested approval for 32 parking spaces on two levels, with access directly from Livingston Street and from Morrison Street through a public alley.
4. At the public hearing and after the public hearing, by letter, the applicant's attorney proposed to modify the application by eliminating one tier of parking and by providing a 15 foot buffer strip at the eastern and southern edge of the property. This reduced the number of requested spaces to fifteen.
5. By order dated April 10, 1975, the Board denied Application No. 11509. The case was denied by a vote of 3-0 (Harps, McIntosh and Cummings to deny, Scrivener not present not voting and Klauber abstaining) at the Executive Session of February 25, 1975.
6. The recent application before the Board was filed on August 21, 1975 and requests permission to locate 15 accessory parking spaces in the R-1-B District on one level with access only from Livingston Street with a 25 foot buffer strip.
7. The Upper Connecticut Avenue Betterment Association by Counsel, filed a Motion to Dismiss at the public hearing on January 21, 1976.

8. Section 5.6 of the Supplemental Rules of Practice and Procedure provides that "An applicant or appellant whose appeal has been denied shall not institute a new appeal or application essentially on the same facts until one year from the date of the order upon the previous appeal or application."

9. Section 4.35 of the Supplemental Rules of Practice and Procedure gives the presiding officer of the Board the authority to: "Dispose of the procedural requests or similar matters...."

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the changes made from the modified application which was before the Board in Case No. 11509 as compared to the recent application are so minimal as to make the two applications essentially the same. The Board further concludes that the Motion to Dismiss filed with the Board is a procedural matter upon which the Chairman was eligible to rule. The Board therefore concludes that the present application is in violation of Section 5.6 of the Supplemental Rules of Practice and Procedure and hereby orders the application dismissed.

VOTE: Case dismissed by order of the Chairman pursuant to  
Section 4.35 of the Rules

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED by: Steven E. Sher  
STEVEN E. SHER  
Acting Secretary of the Board

FINAL DATE OF THE ORDER: MAR 2 1976

BEFORE THE BOARD OF ZONING ADJUSTMENT, D. C.

Application No. 12042, of 5501 Connecticut Avenue Associates, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under paragraph 3101.411 to permit accessory parking for 15 automobiles in the R-1-B District at the premises 3725 Livingston Street, N.W. (Square 1863, part of Lot 69).

CASE HEARD: January 21, 1976

CASE DECIDED: January 21, 1976 (From the Bench)

MEMBERS PRESENT: William S. Harps, William F. MCINTOSH,

Walter B. Lewis, Leonard L. McCants, Lilla Burt Cummings, Esq.

DISPOSITION: Case DISMISSED by the Chairman for violation of Section 5.6 of the Rules

FINAL DATE OF ORDER: March 2, 1976

ORDER


Upon reconsideration of the applicant's motion for reconsideration, dated January 29, 1976 and resubmitted March 11, 1976 with an additional statement dated May 18, 1976, and the responses of the opposing parties dated February 6, 1976 and March 17, 1976, the Board finds that the motion fails to state an acceptance basis of error on the part of the Board to support a motion for reconsideration.

IT IS THEREFORE ORDERED THAT THE MOTION FOR RECONSIDERATION BE, DENIED.

VOTE: 4-0 (Leonard L. McCants, William F. McIntosh, William S. Harps, and Ruby B. McZier to DENY, Lilla Burt Cummings, Esq. not present, not voting).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: \_\_\_\_\_

  
STEVEN E. SHER  
Acting Secretary to the Board

FINAL DATE OF THIS ORDER: JUN 3 1976